

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Ever Gastelum-Garcia,)
Petitioner,)
vs.)
State of Arizona, et al.,)
Respondents.)
No. CV-22-01293-PHX-SPL
ORDER

Petitioner Ever Gastelum-Garcia has filed a Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254 (Doc. 7). The Honorable Camille D. Bibles, United States Magistrate Judge, issued a Report and Recommendation (“R&R”) (Doc. 22), recommending that the Court deny the Petition. Judge Bibles further recommended that if Respondents do not establish that Petitioner has been resentenced on Counts 6, 7, and 8 by the time the Court considers the R&R, the Court should order the state trial court to immediately comply with the appellate court’s remand for resentencing. Judge Bibles advised the parties that they had fourteen (14) days to file objections to the R&R and that failure to file timely objections could be considered a waiver of the right to obtain review of the R&R. (Doc. 22 at 28) (citing 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 6, 72; *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003)).

The parties did not file objections, which relieves the Court of its obligation to review the R&R. *See Reyna-Tapia*, 328 F.3d at 1121; *Thomas v. Arn*, 474 U.S. 140, 149 (1985) (“[Section 636(b)(1)] does not . . . require any review at all . . . of any issue that is

1 not the subject of an objection."); Fed. R. Civ. P. 72(b)(3) ("The district judge must
2 determine de novo any part of the magistrate judge's disposition that has been properly
3 objected to."). The Court has nonetheless reviewed the R&R and finds that it is well-taken.
4 The Court will adopt the R&R and deny the Petition. *See* 28 U.S.C. § 636(b)(1) (stating
5 that the district court "may accept, reject, or modify, in whole or in part, the findings or
6 recommendations made by the magistrate"); Fed. R. Civ. P. 72(b)(3) ("The district judge
7 may accept, reject, or modify the recommended disposition; receive further evidence; or
8 return the matter to the magistrate judge with instructions."). Accordingly,

9 **IT IS ORDERED:**

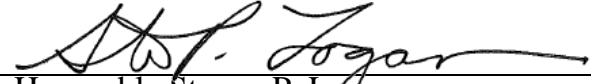
10 1. That Magistrate Judge Camille D. Bibles' Report and Recommendation
11 (Doc. 22) is **accepted** and **adopted** by the Court;

12 2. That the Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254
13 (Doc. 7) is **denied**;

14 3. That the state trial court shall immediately comply with the appellate court's
15 remand for resentencing on Counts 6, 7, and 8; and

16 4. That the Clerk of Court shall **terminate** this action and enter judgment
17 accordingly.

18 Dated this 22nd day of November, 2023.

19
20 
21 Honorable Steven P. Logan
22 United States District Judge
23
24
25
26
27
28